

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,

v.

PETER KOTT,

Defendant.

Case No. 3:07-cr-00056-JWS

MOTION FOR LEAVE TO FILE OUT OF TIME

On September 29, 2009, this Court ordered the United States to file a motion seeking to continue the sealed status of the appendices, or “indicate what redactions would be sufficient to allow disclosure of the remainder of a document.” (Dkt No. 407). On October 21, 2009, the government and defendant Kott filed a Joint Motion to Substitute Redacted Appendices B, C, F, and G for Sealed Appendices B, C, G, and G. (Dkt Nos. 411 & 412). The government filed this joint motion one day late.

The government files this motion for leave to file one business day out of time. Despite counsel’s best efforts, the government was unable to meet the October 20, 2009, deadline to indicate what redactions would be sufficient to allow disclosure, while protecting important privacy interests and the integrity of ongoing investigations, of the sealed appendices to defendant Kott’s motion to dismiss. Due to a clerical error, the government inadvertently miscalculated the day that such substitutions were due. Moreover, the logistics of preparing the paper and electronic filings of these redactions proved more daunting than anticipated. Thus, the filing was not fully assembled by the filing deadline on October 20. The government does not believe that any prejudice will result to any party from this very brief delay of one day, given the fact that the parties are in agreement about what should be redacted and have avoided litigation over this matter, as indicated by the joint status of the motion to substitute the appendices. We

have attempted to contact counsel for defendant Kott to seek her position on this motion, but have been unable to reach her as of the time of this filing.

Accordingly, the government hereby respectfully moves for leave to file one day late the joint motion to substitute redacted appendices B, C, F, and G for the sealed appendices B, C, F, and G.

Respectfully submitted,

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/s/ James M. Trusty
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Dated: October 21, 2009

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I caused a true and correct copy of the foregoing Motion for Leave to File Out of Time to be electronically filed and it is available for viewing and downloading from the ECF system.

/s/ Peter M. Koski
PETER M. KOSKI
U.S. Department of Justice

Dated: October 21, 2009